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RE: GEN Docket No. 93-252; Filing of Reply
Comments of Southwestern Bell Corporation

Dear Mr. Caton:

After the above-referenced pleading was sent yesterday, I realized that more copies should have been enclosed. Please accept the enclosed 12 copies of that same pleading as well as a duplicate original.

Thank you for your assistance.



Darryl W. Howard

Enclosure

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

JUL 01 1994

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In the Matter of)
)
Implementation of Sections)
3(n) and 332 of the)
Communications Act)
)
Regulatory Treatment of)
Mobile Services)

GN Docket No. 93-252

**REPLY COMMENTS OF SOUTHWESTERN BELL CORPORATION
ON RESPONSES TO MOTIONS FOR RECONSIDERATION**

Southwestern Bell Corporation, for itself and its affiliates (collectively, "Southwestern Bell" or "SBC"), hereby files these Reply Comments to the various responsive pleadings to the motions for reconsideration that were filed in reaction to the Second Report and Order in this proceeding. After review of the post-decision pleadings, Southwestern Bell continues to believe that the Commission's decision was well supported by policy, law, and fact in nearly all respects. After only minor tweaking to make the regulatory playing field that much more level,¹ the Commission should re-affirm its decision.

In their respective comments on the motions for reconsideration, both MCI and NEXTEL Communications, Inc.

¹Those slight changes or clarifications, ably argued for by certain commentators, are in the areas of the lack of a need to file informational state tariffs (see McCaw's Petition for Clarification, pp. 9-12); allowing cellular carriers to offer private services (see McCaw's Petition, pp. 15, 16); forbearing from applying the Telephone Operator Consumer Services Improvement Act (see GTE's Petition for Reconsideration or Clarification, pp. 2-6); deeming existing cellular interstate tariffs cancelled (see Comments of the Federal Communications Bar Association).

seek to introduce new issues, re-assert time worn allegations, and re-argue points that the Commission has soundly rejected. In essence, each tries to lay a foundation for the Commission to graft the "non-dominant/dominant" dichotomy into this area of Commission regulation. As has been demonstrated and argued in this proceeding, such an approach would be contrary to Congressional directive and the public interest. In light of the number of firms that have or are about to enter the commercial mobile radio services ("CMRS") market, there simply is no need for the Commission to hamstring some providers with unnecessary regulation while allowing others complete freedom to market their services to consumers.

The attempt by NEXTEL is especially egregious in light of the fact that it has claimed its enhanced mobile radio service to be among those services that are entitled to the three-year transition under the Omnibus Budget Reconciliation Act of 1993. If correct,² NEXTEL would be able to compete against cellular and other wireless common

²This matter has been the subject of some dispute. See Petition for Special Relief Concerning Enhanced Specialized Mobile Radio Applications and Authorizations filed by Bell Atlantic Mobile Systems, Inc. with the Commission on December 22, 1993. Given the proposed transactions between MCI and NEXTEL, Southwestern Bell is very concerned about the effect of those transactions upon wireless competition, especially if MCI/NEXTEL continues to be able to claim the extraordinary benefit of the three-year transition period. Southwestern Bell seriously questions whether that transition period would be available to MCI/NEXTEL, an issue which the Commission must resolve prior to the consummation of those proposed, interrelated transactions.

carriers without any regulation whatsoever for that period. Apparently not satisfied with its total regulatory forbearance prior to the Budget Act and the continuation of that treatment for three more years, NEXTEL wants the Commission to reverse its forbearance decision as to cellular carriers while affirming its decision to forebear from regulating CMRS providers like NEXTEL after the transition period has ended. The Commission has rightly determined that forbearance of CMRS is called for, and should re-affirm that decision in its entirety.

NEXTEL's opposition to the request that cellular providers be able to offer private mobile radio service ("PMRS") is also glaring. The Congressional reports relating to the three-year transition focus on the relative hardship of private carriers previously subjected to no regulation suddenly being fully regulated as common carriers. NEXTEL has even admitted as much.³ Nowhere did Congress indicate, however, that the Commission could not equalize current regulation to a greater degree by allowing a cellular carrier the limited ability to use a portion of its spectrum to provide private services. Indeed, allowing such an ability would further the Congressional goal of treating all carriers providing similar services in the same manner.

³See NEXTEL's Opposition to Bell Atlantic's Petition for Special Relief, filed February 2, 1994.

In contrast, without the ability to offer private services, cellular carriers will be at an extreme disadvantage in competing with those private carriers for customers. In fact, the problem is laid out succinctly in the MCI Comments in MCI's attempt to refute the need for the requested authority and flexibility.⁴ When competing for larger customers, private carriers will be able to undercut the offering of cellular carriers without regard to any discrimination concerns. Contrary to MCI's claims, the result will be lessened competition for those larger customers, not the diminution of competition generally or the possibility of lower prices for the other customers. Even larger customers will not benefit as much as they could due to such unequal regulation. The only ones that clearly benefit from this form of limited competition will be the private carriers. Perhaps not coincidentally, MCI is spending approximately \$1,362,000,000 to purchase effective control of NEXTEL, a clear beneficiary of a denial of the request.⁵ In light of the severe competitive disadvantage

⁴MCI Comments, pp. 5-6.

⁵This push by MCI comes at the same time MCI is striving to convince the Commission to impose equal access requirements on cellular carriers but not on ESMR providers. Perhaps again not coincidentally, one aspect of one agreement between MCI and NEXTEL would have NEXTEL default all interexchange traffic to MCI. Southwestern Bell has been consistent in its approach - all competitors should be subject to the same rules and restrictions, including those governing equal access requirements and calling scope restrictions. Otherwise, artificial competitive advantages are created, and true competition cannot exist. Absent fully equal treatment

that cellular carriers would suffer by these unequal rules, Southwestern Bell supports the call for an equivalent right for cellular carriers to provide private services, a move that would clearly be fully consistent with Congressional directives.

In sum, MCI and NEXTEL again are attempting to use the regulatory process to skew regulation of a market to their mutual private benefit, but demonstrably to the public detriment. The Commission should continue along the path that Congress has paved to equal and equitable regulation of all CMRS providers, and again reject MCI's and NEXTEL's arguments. By adopting the suggestions cited earlier, the Commission can further the process to its ultimate public benefit.

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between CMRS providers such as cellular carriers and ESMR providers, MCI will succeed in having stacked the deck in its favor to the clear detriment of competition and, ultimately, the public interest.

CERTIFICATE OF SERVICE

The undersigned certifies that on the 30th day of June, 1993, a copy of the foregoing Reply Comments were sent by first class mail, postage prepaid to the following service list:

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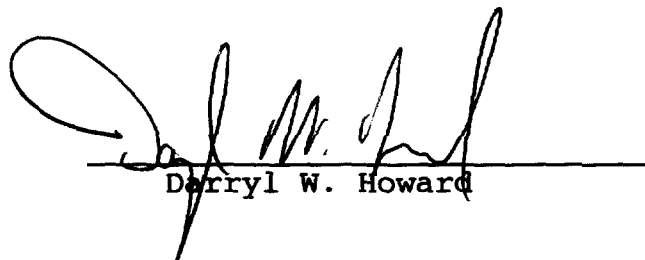
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